

WON'T PROSECUTE SOCIALISTS NOW

Newton Not in Sympathy with Demand of Judiciary Com- mittee Counsel.

HEARING WILL CONTINUE

Legislators Believe No Action Will Be Taken Until After Com- mittee's Decision.

Special to The New York Times.

ALBANY, Feb. 13.—Following an explanation by Attorney General Newton today that he had not suggested criminal proceedings against the suspended Socialist Assemblymen, nor the sending of evidence against them to Federal and County prosecutors, the opinion prevails here that no action will be taken on the recommendation for their prosecution, made by counsel for the Judiciary Committee, until the committee itself has rendered a decision at the end of the present hearing.

Seymour Stedman, of Socialist counsel, after reading in the morning papers the recommendation that his clients be placed on trial under the Espionage act, went at once to New York. He made no attempt to conceal his surprise that such a recommendation should have been made before the Socialist side had been heard by the committee but made no comment. While in New York he intended to confer with three of the Socialist Assemblymen and with Gilbert E. Roe and other counsel.

"No suggestion of criminal proceedings against these Assemblymen ever came to me nor emanated from this office," said the Attorney General. "If the suggestion were made by any one of the counsel for the committee, I would not approve it. This is not a criminal proceeding. It is a proceeding to determine the eligibility of these men to sit as members of the Assembly. Another thing, we have not yet heard their defense."

Prompted by a suggestion after this statement appeared that while the Attorney General had signed the brief, which was drafted by ex-Senator Elon R. Brown, of counsel for the committee, he might not have been familiar with every feature of the document, Mr. Newton was asked if he had read it.

When the attention of the Attorney General was called to the fact that statements by members of the Judiciary Committee and other persons connected with the proceedings, especially since the conviction of Benjamin Gitlow, ex-colleague of the Socialist Assemblymen, had led to inferences which apparently were confirmed by the brief, Mr. Newton said:

"But no such statement has come from me at any time. In all my career as a lawyer I would never countenance beginning criminal proceedings against anybody while a matter related with civil proceedings was pending, and I won't begin doing it now."

Mr. Newton, who, while the proceedings against the Socialist Assemblymen have been in progress has stated that, in his opinion, there was no essential difference, except in name, between the Socialist Party of America and the outlawed Communist and Communist Labor Party, said today that, regardless of what some of the other counsel for the committee might feel, the Gitlow case and the case of the five Socialist Assemblymen were not on "all fours."

Speaker Sweet made it clear that he wanted the investigation to continue to the end.

"This proceeding, so far as I am concerned, must go on," he said. "Of course, the Judiciary Committee will have to decide, but I would not favor any interference with the investigation."

Swann and Martin Await Evidence.

District Attorney Swann of New York County and District Attorney Martin of Bronx County have assigned assistants to consult with legal advisers of the Assembly Judiciary Committee in the event that body submits copies of the testimony taken at Albany with a view to prosecuting the five suspended Socialist Assemblymen.

District Attorney Swann, while he had received no communication from the Judiciary Committee, directed Alexander I. Rourke, Assistant District Attorney, to meet whoever it might send to New York.